**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE SIDE**

**WRIT PETITION NO. 6686 OF 2006**

Smt. Sheela Rujay Fernandes.... Petitioner

versus

Venkataramana Anandrao..... Respondent.

Mr. A.S.Khandeparkar i/b. M/s. KLhandeparkar & Associates for the petitioner.

**CORAM; A.P. DESHPANDE, J.**
**DATED; 11TH JULY, 2007**

**P.C.;**

1. The present petitioner is the original plaintiff. The plaintiff filed a suit for partition and separate possession in the year 1999. It is the case of the petitioner that after instituting the suit and during its pendency, the defendent no.1 has transferred a part of the suit property to third parties under a registered sale deed dated 23-10-2002. On acount of execution of the sale deed by defendant no.1, the plaintiff moved an application seeking amendment of the plaint for bringing on record the fact of execution of the sale deed by the defendant no.1 in favour of third parties. The plaintiff also proposed to implead the purchasers of the property as defendant nos. 8 and 9. The said application though filed, was not pressed. After a lapse of about three years again similar application was moved and the rejection of the said application for amendment has given raise to the filing of the present writ petition. On its own showing by the petitioner, the transaction of sale has

taken place during pendency of the suit. Thus the said transfer is hit by section 52 of the Transfer of Properties Act and principles of lispendant. Thus even if the amendment is not allowed, the same cannot cause any prejudice to the plaintiff/petitioner. Permitting impleadment of the purchasers of the property by allowing the amendment would only delayed the decision of the main suit. The suit is filed in the year 1999. The application for amendment is also filed belatedly. Hence the trial court has rightly rejected the same. No case is made out for interference with the impugned order in exercise of writ jurisdiction. The writ petition is thus summarily dismissed.

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